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U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

NEI Petition to Rulemaking to Amend 10 CFR Part 50.69,
Risk-Informed Categorization and Treatment of Structures, Systems,
and Components for Nuclear Power Reactors, to Clarify the Scope
of Applicability to Include Holders of Combined Licenses (COLs)

Reference:

1. Petition to NRC from NEI, In the Matter of a Proposed Rulemaking Regarding Amendment of 10 CFR Part 50.69, Risk-Informed Categorization and Treatment of Structures, Systems, and Components for Nuclear Power Reactors, posted 1/26/2015. (ML15015A703)

Ladies and Gentlemen:

With regard to the referenced petition, the following issues should be considered to provide higher priority justification that amending 10 CFR 50.69 to include New Reactor COL holders is warranted:

1. Interest by industry to use a "fixed" 10 CFR 50.69 process
2. Clear and consistent regulation for all type license holders
3. Resources to support this rulemaking change process

Regarding the first item, there is interest by the industry to have a "fixed" 10 CFR 50.69 process. South Carolina Electric & Gas Company (SCE&G) has engaged other licensees and, while there is definitely interest, not having the rule "fixed" causes significant uncertainty and therefore, there is a lack of willingness to expend resources on an uncertain outcome. This is a concern also shared and expressed by SCE&G. Virgil C. Summer Nuclear Station (VCSNS) Units 2 and 3 and other current COL holders, as well as soon to be COL holders, find that prohibition from transitioning to 10 CFR 50.69 is inconsistent with the principles of good regulation. Therefore, this oversight has to be resolved quickly to remedy the error and to improve regulatory predictability. The industry and the NRC have already invested a significant amount of time in supporting this process. Any additional effort necessary to resolve this known and well-studied/investigated issue will be well-worth the investment and expediting an acceptance of this petition will prove to be the most prudent approach.

Secondly, Design Certificate applicants and holders use a process (i.e. risk-informed categorization) that is very similar to 10 CFR 50.69 to develop Design Reliability Assurance Programs (DRAP). These DRAP programs are "transferred" to the COL applicant and COL holder and are ultimately approved by the NRC. Similar risk-informed categorization processes are also used in identifying structures, systems and components (SSCs) to be incorporated into Regulatory Treatment of Non-Safety System (RTNSS) Programs. As the COL holders transition to the operating phase, results of risk-informed categorizations will also be used to appropriately identify treatment of SSCs (i.e. QA, maintenance, testing, and inspections) consistent with the SSCs' safety significance. This was previously known as "Operational Reliability Assurance Programs (ORAP)." For Small Module Reactors (SMRs), the NRC has issued SECY-11-0024, "Use of Risk Insights to Enhance the Safety Focus of Small Modular Reactor Reviews." The process and concept proposed in SECY-11-0024 is also very similar to that of 10 CFR 50.69 in that the NRC focus (i.e. level of review/inspection) will be a function of risk significance; that is, safety related and risk significant SSCs will receive more attention while safety related and not risk significant SSCs will receive less attention. SCE&G recommends that a COL holder should be able to transition from a DRAP/ORAP program to a 10 CFR 50.69 program.

Regarding the last item, if a COL holder is allowed (through rulemaking) to exercise the right to transition to 10 CFR 50.69 prior to commercial operation, changes to its ITAAC process would also become necessary. Therefore, the industry will need to work with the NRC to establish how impacts on the ITAAC closure process are to be addressed. This effort should also consider the timing of when a COL applicant/holder would implement 10 CFR 50.69 (e.g. Design Certificate holder, COL applicant stage, prior to the 10 CFR 52.103(g) finding, or after the 10 CFR 52.103(g) determination). It is noteworthy that there are industry resources and personnel with the necessary expertise who are currently available to work on this ITAAC topic. However, these limited resources may not be as available at a later date.

Sincerely,



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